

Plaintiff's Name Charles Ellis

Inmate No. 231-1971

Address 17810 INDUSTRIAL FIRM RD

BAKERSFIELD, CA 93311

LERDO JUSTICE FACILITY

MAY 02 2022

FILED

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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
BY [Signature] DEPUTY CLERK

FOR THE EASTERN DISTRICT OF CALIFORNIA

Charles P. Ellis (231-1971)

(Name of Plaintiff)

1:22-CV-00436-BAM

(Case Number)

vs.

COUNTY OF KERN, ET AL
Defendants,

AMENDED CIVIL RIGHTS COMPLAINT UNDER:

☐ 42 U.S.C. 1983 (State Prisoner)

☐ Bivens Action [403 U.S. 388 (1971)] (Federal Prisoner)

* FIRST AMENDED *

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes X No

B. If your answer to A is yes, how many? 1

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit: 1

Plaintiff Charles Ellis

Defendants DR. SNOW Kern Medical Center

2. Court (if Federal Court, give name of District; if State Court, give name of County)

UNITED STATES DISTRICT COURT EASTERN DIVISION

3. Docket Number ?

4. Assigned Judge B.A.M

5. Disposition (Was the case dismissed? Appealed? Is it still pending?)

Dismissed

6. Filing Date (approx.)

2020

7. Disposition Date (approx.)

Same

II. Exhaustion of Administrative Remedies

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, *Jones v. Bock*, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, *Porter v. Nussle*, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. *Jones*, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes ☒ No ☐

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes ☒ No ☐

C. Is the process completed?

Yes ☒

If your answer is yes, briefly explain what happened at each level.

I have completed my grievance and submitted it. I have received NO Answer, However I have been interviewed by senior jail deputies concerning the incident, as well as P.R.E.A officials I am still currently awaiting for the response. It has been over the allotted 30 days.

No ☐

If your answer is no, explain why not.

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name Deputy GIFFORD is employed as A Detentions Deputy Sheriff
Current Address/Place of Employment Kern County Jail, C.R.F. facility

B. Name ALVAREZ is employed as (BAILIFF) DEPUTY SHERIFF

Current Address/Place of Employment KERN COUNTY SHERIFF'S OFFICE

C. Name BOYD is employed as "Same as ABOVE"

Current Address/Place of Employment //

D. Name LEMON is employed as Same as ABOVE

Current Address/Place of Employment //

E. Name is employed as

Current Address/Place of Employment

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Due Process Clause of the 14th AMENDMENT

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Claim 1.):

Plaintiff, is a Pre-trial Detainee, Housed at the KERN County Jail, Lendo Justice facility. On 3-23-22, I was transported to the (C.R.F) for Court, for a scheduled Preliminary hearing. While waiting for my name to be called, I was discussing matters with my attorney, and was un-happy with what my attorney had told me, so, I stood up during Court to ask the Judge if I could receive a Marsden Motion, However, the words never

had a chance to be spoken, Before I was ultimately grabbed, and pulled out ^{ME} OF COURT, INTO the Hallway, Deputies began beating me And hitting me in the head, face, and upper torso, repeatedly. During this incident, I was restrained in full HANDCUFFS, waist chains, and shackles. I was in severe pain from being thrown, and pushed to the floor, and from having my right wrist twisted, and forcibly bent, to the point it was extremely swollen & I thought it might be broken, as I could not move it. My Face was swollen and bumpy, and my head had knots, and Red scratches, from the fall, and from the beating. I did NOT Resist, or give Deputies GIFFORD, ALVAREZ, BOYD and LEMON any reason for the assault. (Please see ATTACHED) →

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Claim 2.):

①

supporting FACTS: continued. -

All in all, my face was bruised, swollen, as well as my head. my Chestplate, felt as if it was fractured as well as my right wrist also.

"Inmates are searched, prior to entering the Courtroom. I had given No Reason for Deputy Gifford to pull down my pants, and boxers, and put his hand, in my bare buttocks, and between the cheeks. I was still disoriented, from the beating and from lying face down, while fully restrained. While putting his hand in my bare buttocks Deputy Gifford stated "hiding anything, 33")

This Violates KCSO Departmental policies, Both for use of force, and invasive searches, There may be "Cameras" in that hallway.

Deputies "Gifford, Boyd, Alvarez and LEMON" Pulled me up, off the ground, and put me in a wheelchair. They Rolled me down to a holding facility "Tank", on the basement floor. I asked repeatedly, if I could please see the Nurse, But my Please were answered with, "Shut up" comments, Medical was denied.

I Was in fear for my personal well being, I thought they were taking me, where there were No Cameras, for more beating, or sexual acts against me.

I was Subsequently put on the bus and transported Back to the Lerdo Justice facility. I Was So fearful and paranoid, as well as severely traumatized, that I tried to "Commit Suicide" the same night. I was

SUPPORTING FACTS: CONTINUED

Convinced that officers would pass the word, to further the injustice, and bring further harm upon my person, physically, and sexually. I was ashamed, and so very traumatized, that I tried to kill myself, by drinking "COMET," mixed with "Blue Disinfectant Cleaner" and "Magic Shave." I felt so violated. I also cut my left wrist, with a razor blade, and was bleeding, when officers discovered my actions, and pulled me out of the cell.

I was taken by "Hall Ambulance," to Kern Medical Facility, and further transported, by Hall Ambulance to another hospital for treatment (Adventist Health) Hospital.

Once admitted, I was asked by the attending nurse "John Doe," what happened, to me. I briefly explained the physical injuries that led up to my "ultimate action" of the most importance, "Ingestion of Dangerous Substances."

I had X-Rays, taken of my chest, and right wrist, and was given "Morphine," for the pain. I was in the "hosp" for 3 or 4 days, before I was ultimately discharged. But not before a serious procedure was conducted to check for damage to my internal intestines and stomach.

Once I returned to the Lerdal Justice facility, I was placed into the infirmary, for suicide watch. After 2 days I was cleared to be off watch, but remained in the infirmary, for further X-Rays (right wrist) and observation.

Supporting Facts: Continued.

While in the infirmary, for continued observation and housing, at my earliest opportunity, I requested a Grievance, and made my formal Complaint against Deputies, and against Deputy Gifford for his role in the incident. I handed the finished Grievance to Deputy WADE, who forwarded it to SR. Deputy MARTIN.

The same day of Complaint, SR. Deputy MARTIN, and SR. Deputy HERNANDEZ, conducted a recorded interview concerning only the sexual abuse allegations, against Deputy Gifford. OFF OF the recording I was told that someone would take pictures, but they did not do so.

I asked them to help me, and to fire Deputy Gifford, or at least discipline him, but they did not respond to my request.

"P.R.E.A" staff interviewed me, MB. Janice Smith regarding Deputy Gifford's acts, soon after my release, from the infirmary.

I filed my formal Complaint on a sheriff facility Grievance form on 3-30-22, as of this date I've had no formal response.

I was subsequently placed in Administrative Segregation upon my release from the infirmary, instead of my original housing quarters "A-MOD". No reason has been given for my removal.

I asked Classification Deputy's if it was due to my attempted suicide, or court incident, and was told

IV " STATEMENT OF FACTS: CONTINUED

No. that they did NOT know the Reason. I have received No Write ups, as of this date. I believe it is for Punishment for filing the grievance.

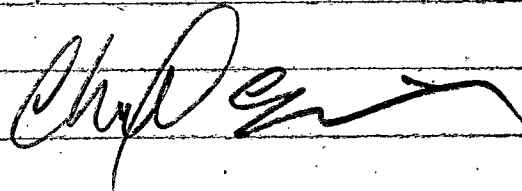
Despite being made aware, of What happened to me, and being made aware of possible video, SENIOR K.C.S.O. Detention Staff, have NOT taken any action against the Deputies involved, and ^{or} especially, Deputy Gifford.

I even went as far as told my trial attorney, MR. Jason Westerfield, ON - 4.7.22, What happened and he made NOTES of my fears for my safety.

Plaintiff further and finally, alleges that Deputy Gifford, and the KCSO, Violated the Consent decree, agreed to, With the California Department of Justice, Which showed systematic violations of Defendants, and Senior Sheriff staff, By NOT acting in accordance, to curb officer misconduct performed By Deputies employed By KCSO.

I Declare under Penalty of Perjury that the foregoing is True and correct.

4/28/22



V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Plaintiff is seeking monetary compensation, for the physical abuse and sexual ABUSE, causing mental anguish, Paranoia, and Physical Pain and Suffering. Plaintiff Also seeks Any Form of Inductive Relief the Courts / Authorities deem appropriate to right the wrong. Plaintiff seeks "Substantial" Monetary Compensation, as to this incident being so traumatizing, it Caused Plaintiff to attempt to end his own Life.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 4-28-22

Signature of Plaintiff: 